

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

TIMOTHY GARNETT,

Petitioner,

v.

JAY CASSADY,

Respondent.

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No. 4:13-cv-1546-JAR

**MEMORANDUM AND ORDER**

This matter is before the Court on Petitioner Timothy Garnett's Motion for Leave to Appeal In Forma Pauperis (Doc. No. 20) and Petition for a Certificate of Appealability. (Doc. No. 21)

On January 25, 2016, this Court entered an order denying Petitioner's petition for writ of habeas corpus as untimely. (Doc. No. 17) That order further denied Petitioner a certificate of appealability. A certificate of appealability will be issued "only if the applicant has made a substantial showing of the denial of a constitutional right" and has "indicate[d] which specific issue or issues satisfy the showing required." 28 U.S.C. § 2253(c)(2), (3). Additionally, "the petitioner 'must demonstrate that the issues are debatable among jurists of reason; that a court could resolve the issues [in a different manner]; or that the questions are adequate to deserve encouragement to proceed further.' " Randolf v. Kemna, 276 F.3d 401, 403 n. 1 (8th Cir. 2002) (internal citations omitted). As the Court concluded in its January 25, 2016 order, Petitioner has not met this standard. Therefore, Petitioner's request for a certificate of appealability will be denied.

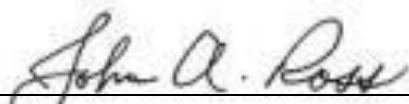
Petitioner has also sought leave to proceed in forma pauperis on appeal. Upon review of the record in this matter, this Court had previously found the applicant financially unable to pay any portion of the required filing fee in this Court (Doc. No. 4) and shall therefore grant his request on appeal.

Accordingly, after careful review and consideration,

**IT IS HEREBY ORDERED** that Petitioner's Motion for Leave to Appeal in Forma Pauperis [20] is **GRANTED**.

**IT IS FURTHER ORDERED** that Petitioner's Motion for Certificate of Appealability [21] is **DENIED**.

Dated this 29<sup>th</sup> day of February, 2016.

  
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**JOHN A. ROSS**  
**UNITED STATES DISTRICT JUDGE**